

Sisk, Richard

From: Sisk, Richard
Sent: Thursday, April 18, 2013 3:58 PM
To: Sullivan, Shaun
Subject: FW: Access Agreement & 2nd Notice
Attachments: New VB I-70 Consent Access June 2012 FINAL.docx; Example of 2nd Notice draft April 2013.docx

Shaun – Attached is the Consent for Access form we are using and a draft additional notice that EPA would file if we have new facts or data regarding a property.

Let me know what you think.

Thanks

Richard Sisk
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From: Schmittldiel, Paula
Sent: Wednesday, April 17, 2013 1:37 PM
To: Sisk, Richard
Subject: Access Agreement & 2nd Notice



Paula Schmittldiel

Remedial Project Manager
U.S. Environmental Protection Agency

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

1595 Wynkoop Street, Region 8

DENVER, CO 80202-2466

Phone 800-227-8917

<http://www.epa.gov/region08>

CONSENT FOR ACCESS TO PROPERTY

RIGHT OF ENTRY TO PREMISES:

The Property Owner (the Grantor) consents to and authorizes the United States Environmental Protection Agency (EPA) and its authorized representatives and their contractors collectively the Grantee, to enter and perform certain environmental response activities upon the following premises:

Owner's Name: _____

Address of Property Covered

By this Agreement: _____

Daytime Phone No. _____

PURPOSE OF RESPONSE ACTIVITIES:

The EPA is requesting access to collect soil samples and **where necessary** to remove soil that contains elevated concentrations of arsenic and/or lead that may pose a health hazard. If elevated concentrations are found, the soil will be removed and the excavated area will be replaced with clean materials and restored. This work is being performed as part of the Vasquez Boulevard/I-70 Superfund Site remediation program at no cost to the property owner. Soil sampling will be conducted during the summer of 2012 and the soil cleanup (if necessary) will be conducted in 2013.

An EPA representative will contact the Owner in advance of soil sampling. If based on sampling results soil cleanup is necessary, the EPA representative will contact the Property Owner in-person to discuss the cleanup on the property. **The Property Owner will have an opportunity to review and approve the restoration plan before cleanup begins.** Once the work is completed, the Property Owner will be asked to review the work and confirm that it is complete and meets the signed restoration plan. Upon completion, the Property Owner will receive written documentation from EPA that the property has been remediated.

ENVIRONMENTAL RESPONSE ACTIVITIES:

By signing this Access Agreement, the Property Owner is granting EPA, its employees and representatives including the United States Army Corps of Engineers (USACE) and their contractors and the Colorado Department of Public Health and Environment (CDHPE) the right to enter the property, at all reasonable times and with prior notice, for the sole purpose of performing the necessary work. This access shall remain in effect until the work has been satisfactorily completed. As necessary for either the soil sampling or for soil cleanup, the Property Owner also agrees to:

- Remove obstructions including boats, trailers, vehicles, playscape items, wood piles, dog houses, etc.;
- Remove flower bulbs or plants that the Property Owner or Property Owner's tenant may wish to save;
- Water and maintain replacement vegetation, including fertilizer application, as necessary subsequent to an initial watering period by EPA unless watering is restricted by Denver Water Board;
- Abide by health and safety guidance provided by EPA and/or its representatives;
- If the property is rented, assist EPA in obtaining tenant approval for access to the property to perform the work if EPA is unable to obtain such access; and
- Allow videotaping and/or photography of the property including exterior of buildings.

AGREEMENT NOT TO INTERFERE

The Property Owner agrees to not interfere or tamper with any of the activities or work being done, or the equipment used to perform the cleanup activities or to allow others to use the property in a conflicting manner.

This written permission is given voluntarily with knowledge of the right to refuse and without compulsion or promises of any kind. The Property Owner understands that if there is any damage to structures such as sidewalks that is caused by the work conducted by EPA or their authorized representatives, contractors, or sub-contractors then EPA or authorized representatives, contractors or sub-contractors shall repair such damage to the extent practicable.

☐ **I grant access to my properties**

Signature

Date

Mailing Address: _____

After signing, please return to:

Paula Schmittiel, Remedial Project Manager
 U.S. Environmental Protection Agency
 1595 Wynkoop St.
 Denver, Colorado 80202-1129
 Mail Code: 8EPR-SR

When Recorded Return To:
Remedial Project Manager, EPR-SR
Vasquez Boulevard and Interstate 70 Superfund Site
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street, Denver, CO 80202

NOTICE OF ENVIRONMENTAL CONDITIONS

WHEREAS, [Name of Owner] is the owner of record of the real property (referred to as "the Property") located at [ADDRESS], Denver, Colorado [insert zip code], and more particularly described as follows:

(Insert legal description as shown in Denver records)

WHEREAS, the Property is within the boundaries of Operable Unit 1 of the Vasquez Boulevard and Interstate 70 Superfund Site (Site), as described in the Record of Decision (ROD) signed by United States Environmental Protection Agency (EPA) on September 25, 2003.

WHEREAS, on (Date), (reception number), EPA prepared and recorded a Notice of Potential Environmental Conditions to disclose potential environmental conditions of the Property to subsequent owners of the Property.

WHEREAS, EPA has received information regarding environmental conditions at this Property and EPA has prepared and recorded this Notice of Environmental Conditions ("Notice").

NOW, THEREFORE, NOTICE is hereby given that, as of the date of this Notice, the EPA has received information regarding environmental conditions for the above described Property and the Notice of Potential Environmental Conditions is hereby withdrawn in its entirety.

EPA obtained soil samples from over 4000 residential properties within the Site. Of this total, over 800 properties showed levels of lead and/or arsenic contamination that could present unacceptable risk to or make the property unsafe for children or adults. The levels at which EPA determined that lead and/or arsenic in soil present an unacceptable risk (the so-called "action levels" in the ROD) were 400 parts per million (ppm) or greater for lead and 70 ppm or greater for arsenic.

Subsequent to the recording of the Notice of Potential Environmental Conditions, the owner of the Property provided EPA or CDPHE a consent for access to sample the Property.

Sampling of the property soils were performed by [EPA or CDPHE] on [DATE]. The results from the sampling performed by [EPA or CDPHE] show lead and arsenic concentrations in the Property soils below the action levels.

EPA's records regarding the Property and the Site, may be requested from the U.S. Environmental Protection Agency, Region 8, Superfund Remedial Program, Remedial Project Manager, Vasquez Boulevard and Interstate 70 Superfund Site, 1595 Wynkoop Street, Denver, Colorado 80202..

For purposes of indexing in the County Clerk and Recorder's office Grantor-Grantee index only, {Name of Owner of Record} shall be considered the Grantor, and EPA shall be considered the Grantee; nothing in this Notice shall be construed to create or transfer any right, title or interest in the Property.

United States Environmental Protection Agency

By: _____

Date: _____

Bill Murray, Director
Superfund Remedial Program
U.S. Environmental Protection Agency
Region 8

State of Colorado)

)

ss:

County of Denver)


Before me, a notary public, in and for said county and state, personally appeared Bill Murray, Director at the United States Environmental Protection Agency, who acknowledged to me that he did execute the foregoing instrument.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this ____ day of ____, 2013.

[SEAL]

Sisk, Richard

From: Schmittziel, Paula
Sent: Wednesday, April 17, 2013 2:06 PM
To: Hestmark, Martin; Stavnes, Sandra; Murray, Bill; Wharton, Steve; Chergo, Jennifer; Sisk, Richard; Fells, Sandy; Works, John
Cc: MacDonald, Frances
Subject: Hot Topics



Topic: VB/I-70 – OU-01 Superfund Site

Discussion:

On Tuesday, April 16th, EPA staff met with the City of Denver elected officials and City staff regarding EPA's proposed plans to implement institutional controls (ICs) for addressing the non-responsive residential property owners in OU-01 at VB/I-70. Where EPA has been denied access to either sample or to cleanup a residential property (after multiple efforts to gain access) EPA is proposing two proposed measures: 1) Annual letters; and 2) a Notice of Environmental Conditions being filed and recorded in the property file at the City/County of Denver.

EPA staff and managers had met with State officials and Doug Linkhart, Director and his staff for the Dept. of Environmental Health on April 5th regarding EPA's proposed plans. Subsequently, DEH briefed Councilwoman Judy Montero and Councilman Albus Brooks on our proposed plans for ICs. Councilwoman Judy Montero was concerned about EPA's proposed plans and had requested a meeting with Doug Linkhart and DEH staff and EPA. Also in attendance at this meeting were representatives for Councilman Brooks and staff member, Jen Clanahan of Representative Diane DeGette's office.

Councilwoman Montero had a number of concerns as to the impact of Notices being filed on the property. She did not want EPA to send letters to property owners without one more outreach effort in an attempt to gain the trust of these property owners. Councilwoman Montero thought that a local NGO like GroundWorks Denver or LiveWell or perhaps a City social services case workers could be approached about contacting these property owners.

EPA explained that we had funding available now and we were uncertain about available funding in the future. EPA also explained that without implementing ICs that we would not be able to de-list the site and that over 4500 property owners had already complied with EPA's request for access.

Agreements:

- EPA agreed to allow both city council offices a limited amount of time (till end of May) for their own outreach efforts to these property owners before sending the last chance letters to property owners.
- Councilwoman Montero agreed to contact GroundWorks Denver about some outreach efforts.
- The City and council offices will identify properties that are either vacant/abandoned or that are "institutional" (banks, etc.) where EPA could proceed with mailing the "last chance" letters.
- EPA will send the draft letters to the council offices for their input before finalizing the letters.
- EPA will look into a small amount of limited funding (\$500-\$1500??) to assist the council offices or a local NGO with this short term outreach effort.

- City Council representatives agreed that EPA would send letters to property owners once the latest outreach effort was concluded.

For more information, please contact either Jennifer Chergo @ 312-6601 or Paula Schmittiel @ 312-6861.

Paula Schmittiel

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